SHAP TALK

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In this issue:

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TRADE NEWS

CBP's Fiscal Year 2014 Performance and Accountability Report Published

Customs & Border Protection (CBP) released their annual Performance and Accountability Report (PAR) for FY 2014. The document detailed financial statements, assurances on internal control, accountability reporting, and Agency assessments to assess its performance as it relates to the CBP mission.

PAR 2014 reported that CBP met five of its nine performance measure targets (56%). Below are the results of objectives specific to international trade.

- **Performance Measure (1): Percent of inbound cargo identified by CBP as potentially high-risk that is assessed or scanned prior to departure or at arrival at a U.S. port of entry – Result 99.2%, Target 100%**

  This measure gauges the percent of international cargo coming to the U.S. via air, land, and sea identified as potentially high-risk using the Automated Targeting System (ATS) that is assessed or scanned prior to lading or at arrival at a U.S. port of entry.

- **Performance Measure (5): Percent of cargo by value imported to the U.S. by participants in CBP trade partnership programs – Result 53.90%, Result 59%**

  This measure describes the percent of all cargo that is imported from CBP trade partnership programs based on the value compared to total value of all imports. Partnership programs include both C-TPAT and Importer Self-Assessment (ISA).

- **Performance Measure (6): Percent of import revenue successfully collected – Result 99.56%, Target 100%**

  This measure estimates the collected duties, taxes, and fees (called net under-collection of revenue) expressed as a percent of all collectable revenue due from commercial imports to the United States directed by trade laws, regulations, and agreements.

- **Performance Measure (7): Percent of imports compliant with applicable U.S. trade laws – Result 97.99%, Target 97.50%**

  This measure reports the percent of imports that are compliant with U.S. trade laws including customs revenue laws.

- **Performance Measure (8): Amount of smuggled outbound currency seized at the ports of entry (in millions) – Result $37.7M, Target $30.0M**

  This measure provides the total dollar amount of all currency in millions seized during outbound inspection of exiting passengers and vehicles, both privately-owned and commercial.

For the full report, [FY 2014 Performance and Accountability Report]().

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Congress Criticizes at FDA's Untitled Letter Program

In a May 27 letter, the House Committee on Energy and Commerce criticized the Food and Drug Administration (FDA) about discrepancies related to both untitled letters that are posted to the public and, in some cases, to issued letters where no violations were found during inspection.

Untitled letters are issued in cases of less serious violations that, if not immediately corrected, would lead to enforcement by the agency. Letters are posted directly to the FDA's website for public viewing; however, the committee found inconsistencies in posting procedures.

In a particular case stemming from an untitled letter, a company saw their stock prices fall significantly within three days of the letter's posting; shareholders issued a lawsuit against the company that is still pending. The untitled letter was published a year after the original FDA inspection and did not detail the company's violations.

As Congress examines FDA's untitled letters process, they will evaluate posting criteria, timing of postings to consider stock market schedules, and providing violation notice at the time of inspection to allow for corrections to be made before issuing an untitled letter.

Export-Import Bank Reauthorization Deadline Looms

The June 30 deadline for the reauthorization of the U.S. Export-Import (Ex-Im) Bank is approaching. In a June 3 letter, over 1,000 companies and associations pushed lawmakers for a long-term renewal of legislation supporting the credit agency.

The letter stated, "If Ex-Im is not reauthorized before June 30, American companies would be put at a unique disadvantage in global markets, resulting immediately in lost sales and lost jobs. U.S. businesses of all sizes would be deprived of a vital financing source at a time when boosting exports is increasingly vital to growing our nation's economy and jobs."

While a majority of the Financial Services Committee and House of Representatives support the renewal legislation, the committee is headed by Jeb Hensarling, R-Texas, and a known Ex-Im critic. Democrats rallied in the form of a press conference to publicize support for the legislation.

Proposed Rules Regarding Destination Control Statement for Exporters

The Department of Commerce, Bureau of Industry and Security (BIS) and the Department of State issued bookend proposed rules for comments on the exporter's destination control statement under the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR).

Under Export Control Reform, one of the initiatives is to harmonize regulations under the ITAR and the EAR when they both have requirements that are intended to achieve the same purpose. It is their intent to reduce the burden on exporters. In the past few months, Commerce and State have been working to come up with one Destination Control Statement for the EAR and the ITAR to alleviate confusion and to require just one statement instead of two because there is not enough space on the airway bill to show both.

The intent of the destination control statement is to ensure that the statement reaches the ultimate consignee of the item.

This proposed rule would revise § 758.6 of the EAR to harmonize the destination control statement requirement text with § 123.9(b)(1) of the ITAR.

The new Destination Control Statements read as follows: *"These items are controlled and authorized by the U.S. Government for export only to the specified country of ultimate destination for use by the end-user herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized end-user or consignee(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations."*

As it stands in the EAR proposed rule, BIS wants to see the following:

§ 758.6 Destination control statement and other information furnished to consignees.

(a) The exporter shall incorporate the following information as an integral **part of the commercial invoice and contractual documentation, when such contractual documentation exists,** whenever items on the Commerce Control List are exported, unless the export may be made under License Exception BAG or GFT (see part 740 of the EAR):Show citation box

(1) For any item on the Commerce Control List being exported and

(2) The ECCN for each 9x515 or "600 series" item being exported

In the ITAR proposed rule, State is requesting the following:

123.9 (b)

(1) The exporter must incorporate the following information as an integral **part of the bill of lading, air waybill, or other shipping document, and the purchase documentation or invoice whenever defense articles are to be exported, retransferred, or re-exported pursuant to a license or other approval** under this subchapter:

(i) The country of ultimate destination;

(ii) The end-user;

(iii) The license or other approval number or exemption citation

(2) When exporting items subject to the EAR (see §§ 120.42 and 123.1(b) of this subchapter) pursuant to a Department of State license or other approval, the U.S. exporter must also provide the end-user and consignees with the appropriate EAR classification information for each item exported pursuant to a U.S. Munitions List "(x)" paragraph. This includes the Export Control Classification Number (ECCN) or EAR99 designation.

Both of these "bookend" rules were published in the May 22, 2015 Federal Register. The deadline for submitting comments to BIS/State is July 6, 2015.

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Exporters, please remember that it is **your responsibility** to ensure this revised destination control statement appears on the required documentation for export; so please make any comments you may have on these rules now, track these proposed rules and be ready once the final rules are issued.

GSP/Preferences Bill Hits Potential Roadblock in House

The trade community breathed a sigh of relief when the Senate passed a trade preferences bill (HR- 1295) in late May. The bill includes the renewal of General Systems of Preferences status for billions of dollars of merchandise and hundreds of millions of dollars in duties, renews the African Growth and Opportunity Act (AGOA), and renews two trade programs to assist Haiti. Unfortunately, that sigh of relief is quickly becoming a groan of disbelief.

House Ways and Means Chairman, Paul Ryan, indicated recently that despite wide agreement in the House with the Senate version of the bill, there are some serious disagreements about payment mechanisms and offset payments. The concerns are serious enough that Ryan believes the bill will likely go to legislative conference, a process which will require both chambers to vote again on a compromise proposal.

Interestingly, the Senate version of the bill also tacked on provisions for a GSP Update Act, Affordable Footwear Act, and a performance outerwear measure. It was unclear if these added provisions are contributing to the House's objections to the Senate's preferences bill.

The Trans-Pacific Partnership Debate Sets Sail in Washington

On May 21, the Senate narrowly passed a bill granting President Obama Trade Promotion Authority (TPA), the first time this power has been granted since 2002. In essence, TPA gives the President the ability to pass legislation with a simple majority vote in the chambers of government. Given the very strong opposition to the Trans-Pacific Partnership within his own party, the news on TPA is a huge first step for Mr. Obama.

The Trans-Pacific Partnership is a highly secretive trade deal which provides for a Pacific Rim "free trade zone" with increased access to currently protected industries, lower tariffs, new investment rules, improved guidelines on the services sector, and a framework for information flows/internet freedoms. Additionally, the pact is said to provide for (and impose) much higher standards for labor conditions, environmental standards, product safety standards, and intellectual property rights. The negotiations for this trade deal have been on-going for more than ten years now, and it will certainly play a starring role in the up-coming elections.

There are 12 nations included in the first iteration of the deal including: the U.S., Canada, Mexico, Peru, Chile, New Zealand, Australia, Singapore, Malaysia, Brunei, Viet Nam, and Japan. Combined, these economies represent approximately 40% of global GDP and roughly 33% of world trade.

Many insiders see the pact as a means to exclude China and to combat China's highly questionable performance on access to their markets, labor conditions, environmental protection, intellectual property rights enforcement, and information access/freedom. Interestingly, China has been largely quiet on the Trans-Pacific Partnership since the first draft of the weighty trade agreement was completed. China had vocally opposed the agreement in past months.

The debate in the U.S. will certainly focus on two widely different views of job creation. Since 2003, when NAFTA was enacted, many unions and manufacturing interests have claimed that the U.S. has lost untold thousands of jobs to Mexico (primarily). At the same time, groups representing the services side of the economy (finance, legal, engineering, technology, etc) have argued that unprecedented access to new markets has actually created well-paying jobs in the U.S. In many ways, the debate on the Trans-Pacific Partnership could well serve as a barometer for how the U.S. sees itself in the future world economy. Complicating the Pacific free trade debate is the highly contentious practice of U.S. corporations "hiding" profits overseas for tax advantages. It is unclear at present how this trade deal addresses that issue or whether it may actually make it easier for corporations to exploit tax loopholes.

One thing is certain: we will all be reading about the Trans-Pacific Partnership for the next many months, and this legislation could stand next to Obamacare as the President's lasting legacy.

TRANSPORTATION NEWS

June 2015 Update

INDUSTRY NEWS:

ILWU Ratifies Five-Year Contract Agreement with PMA

International Longshore and Warehouse Union (ILWU) have ratified the five-year contract agreement with the Pacific Maritime Association (PMA). The contract was confirmed on Friday, May 22, 2015, more than a year since negotiations began, and will be retroactive to the previous contract's July 1, 2014 expiration, remaining valid through July 1, 2019.

The agreement was passed by a large majority of union voters and will finally close the chapter on some of the most disruptive and hostile negotiations the U.S. West Coast trade has seen. Terms of the contract included increased pay, improved benefits and retirement package, as well as jurisdictional issues related to chassis and maintenance repair. Congestion at West Coast terminals, primarily in Los Angeles and Long Beach, has been steadily improving.

Shapiro would like to thank those that have followed our ILWU/PMA coverage through Shap Flash Email Alerts.

L.A. Begins to Automate Port Terminal

Middle Harbor Terminal in California's San Pedro Bay is currently in the process of a $1.3 billion modernization project to update and automate the way that ships are unloaded at the terminal. This project includes installing remote controlled 165 foot tall cranes to remove containers from the ships and driverless trucks guided by magnets embedded in the asphalt to guide the trucks to the sorting yard. The goal of the project is to increase efficiency at the ports of Los Angeles and Long Beach.

According to Chris Parvin, Executive Vice President of MSC, "I don't see that we can move increased volumes of containers with the current model, the only way we can do that is with increased efficiency, which is dependent on automation and technology." The ports have been losing market share to Prince

Rupert and Savannah. Currently, it takes about 4 days to unload a ship at Savannah or Prince Rupert and 6 days to unload at Los Angeles/Long Beach. It is estimated that one third of cargo entering the port is discretionary, meaning that shippers can easily choose another passage entry to the U.S.

NCBFAA President Calls for Port Congestion Fact Finding Investigation

In a letter to the Federal Maritime Commission (FMC) Chairman Mario Cordero, National Customs Brokers and Forwarders Association, Inc. (NCBFAA) President Geoffrey Powell instructed the FMC to initiate an investigation into the issue of port congestion and its impact on demurrage, detention and per diem charges assessed by the vessel operating common carriers (VOCCs) and the port terminals.

As vessels became larger and terminal space diminished, some carriers and marine terminal operators not only reduced the time during which importer and consignees can pick up their cargo but also increased the penalties for not doing so within the free time allowed. Added to this is the difference in charges imposed by carriers within ports and across ports. Although competitive considerations and equipment recovery challenges may account for these issues, it is also possible that the amounts are based upon revenue-generating considerations and/or the internal culture of the individual carriers. According to President Powell, this raises the question of whether these charges are being establish on a reasonable basis.

In his letter, President Powell requested a review of these specific issues:

- Are charges reasonable - or even lawful - if cargo is unavailable?
- With increasing congestion at major ports, are free time reductions and attendant penalties reasonable?
- Is it reasonable or discriminatory to waive or reduce demurrage and detention charges for favored customers?
- Is using assessment of the penalty portion of demurrage as a revenue source a reasonable practice?
- Are the charges based on cost and competitive factors or simply intended to generate revenues and/or discriminate against less favored customers?

Under Armour Supports Home Town Port of Baltimore

Under Armour Inc. is shipping to the Port of Baltimore for the first time in eight years as it changes with the logistics industry and diversifies freight routes following the West Coast labor dispute that twisted traffic earlier this year. Under Armour was able to keep product moving into the United States but the experience had it looking to diversify its shipping.

During Under Armour's April 21 earnings call, Brad Dickerson, the company's Chief Operating Officer and Chief Financial Officer, said the port congestion and bad weather dinged overall net revenues by 1 to 2 percent in the previous quarter. Gross margins were trimmed by 0.6 percent because of airfreight costs the company incurred to avoid the congestion and get merchandise to stores.

Sports apparel maker Under Armour will use an Asia-United States East Coast all-water container service from Evergreen to feed its import distribution center in Baltimore. The first ship carrying Under Armour products from China to Baltimore should arrive by the end of June, said Chris Sichette, Under Armour's Director of Global Trade Compliance. In the meantime, the athletic gear company is reviewing six other shipping lanes.

More Under Armour shipping could be bound for the Baltimore port in the future.

OCEAN FREIGHT

Trans-Pacific Market Faces General Rate Increase on June 1

The carriers in the Trans-Pacific import market are pushing for a General Rate Increase (GRI) of $480 to $540/20', $600/40', $675/40'hc, and $760/45' as of June 1. Even though we are heading into Peak Season, we are seeing 90% vessel space utilization to USEC and 85% vessel space utilization to the USWC. The actual dollar amount for the June 1 increase is not expected to hold at the full advertised amounts; increases of $200 to $300 per 40' seem to make more realistic in this market. The carriers in the Trans-Pacific import market also announced a Peak Season Surcharge (PSS) of $360/20', $400/40', $450/40'hc, $506/45' as of July 1, 2015.

The export market will experience a GRI of $175/20' and $350/40' for exports to Australia/New Zealand. No increases are expected for the other trade lanes for export.

Coast-wide ILWU Chassis Policy in the Works

One of the most contentious issues that revolved around the recent contract ratified by the Pacific Maritime Association (PMA) and the International Longshore and Warehouse Union (ILWU) involved the ability for the union to inspect trucker-controlled chassis within the port terminals. Harbor based truckers strongly opposed these inspections as unwarranted, unnecessary, and cited them as contributing to further delays at already congested terminals. Since these chassis are controlled by the motor carriers themselves, there have been questions raised about the legality of the terminals and unions undertaking these inspections.

The Journal of Commerce reported that, as of May 27th, only sporadic instances of chassis inspections have taken place on West Coast terminals as part of the new contract and the ILWU is still working on formulating their broader policy regarding these inspections. In the meantime, truckers remain in limbo and in fear of an uncertain and inconsistent inspection policy dependent on the day of the week and the specific terminal. The PMA and the ILWU are expected to meet in the very near future to start shaping this policy.

Shapiro will continue to monitor these talks as they unfold.

Trans-Pacific Schedule Reliability Improves but Still Unacceptable

Now that the West Coast Labor issues have been resolved, the carriers' vessel reliability has improved but it still a long way from being acceptable to shippers. We have finally reached a point where no vessels are waiting to berth at Los Angeles-Long Beach harbor areas. On the Friday before Memorial Day, only one vessel was at berth.

Vessel reliability hit rock bottom in the Trans-Pacific trade in February before the tentative agreement was reached between ILWU works and the PMA on February 20. Once the tentative agreement was signed, the work slowdowns ended almost immediately at the ports. For the past three months, the ports of Los Angeles-Long Beach have been steadily digging out of their backlog. In February, vessel on-time-performance was a mere 12.5%. By April, the vessel on-time-performance in the trade increased to 36.4 percent; but in comparison to the 80.5 percent on time performance seen in July 2014, the improvements we have seen are still not to acceptable levels.

The East Coast ports have had similar problems this year as they struggle with increased volumes caused by the work slowdown at USWC ports. This month, East Coast on-time-performance levels sat at a mere 58 percent as compared to an on time performance of 72 percent in May of 2014.

Port of Baltimore Gets New Direct Europe Service

In a press release put out by the Maryland Port Authority, CMA CGM has announced its return to Baltimore. The French container line has not called Baltimore directly since 2008.

The new port call in Baltimore is being added to the container line's current 'Liberty Solo' service between North Europe and US East Coast. The new vessel rotation will run from Rotterdam to Bremerhaven to Le Havre to New York, Baltimore, Charleston, and back to Rotterdam.

The new service, which will be implemented by using smaller 2000 TEU vessels, is part of the company's effort to operate its own East Coast network, rather than vessel-sharing or buying space on their competitors' vessels. Marc Bourdon, president of CMA CGM America, said the addition of Baltimore to the company's Liberty Solo service will make it "better placed to capitalize on the strengthening of the U.S. economy and continued growth in trans-Atlantic trade."

The expanded service fills a much needed gap at the port of Baltimore which previously lacked direct options to and from Europe.

Callao Peru Port Strikes

As reported in the JOC and American Shipper earlier this month, Peruvian Dockworker's union went on indefinite strike at the APM terminal in the Port of Callao. At issue is the recent implementation of a new electronic roster system that replaces a paper based system to control worker allocation.

Now entering their third week of strikes, the owner of this terminal APM claims that the terminal operations are back to normal and only general cargo operations were affected, which the Union disputes. APM has replaced dock union workers with the assistance of the navy, as allowed by Peruvian law. The labor union claims the strike has started to affect container operation as trucks begin to line up outside the port apparently due to stalled operations. APMT, the dockworkers union, and the Peru minister of Labor are working to settle the labor dispute.

AIR FREIGHT

Time Shaving for Time Sensitive Air Freight

Two recent industry articles have discovered that air cargo spends much of its time on the ground. While new security measures have not had a huge impact on overall transit time, there are areas for improvement.

The first perspective in the Journal of Commerce evaluates the amount of time an air shipment needs at origin and destination for processing. As e-freight struggles to gain momentum by country, air carrier and forwarders, there is little question that the initiative will save cost and time once fully functional. Having a unified paperless environment for air cargo could save up to 48 hours on the ground off an entire shipment's transit.

An alternative angle described by Air Cargo World examines the time needed to recover an air shipment from the airport handler that represents the carrier. Aside from port congestion that pushes more cargo via air, third party handlers working inbound air cargo have their own set of congestion problems. At the major airports during peak times of day, lines for recovering cargo are so long that some truckers are turned away by airport security. The airlines subcontracting out their handling have historically turned a blind eye to the Handling Customer Service representing them, so there is little recourse for complaints. The general timeframe of cargo break down and availability is 4-6 hours after landing; however, low staffing levels and insufficient space can push that back to overnight break down in some cases. Handlers and airlines need to address the increasing delays for accepting and releasing cargo. Then we can see a truly faster air cargo transit time instead of the old 6-7 days door-to-door standard.

DOMESTIC NEWS

XPO Logistics to Buy Bridge Terminal Transport

French 3PL XPO Logistics has recently cut a deal to purchase Bridge Terminal Transport Services (BTT), one of the largest motor carriers servicing ports and intermodal facilities in the United States, for $100 Million. BTT was once Maersk's in house trucking unit, but Maersk spun off this piece of their business several years ago. BTT operates 28 terminals around the country, manages approximately 1300 owner operators, has 250 employees, and services about 1800 customers.

XPO purchased Pacer International in 2014, so it was already a major player in the U.S. drayage industry. With the additional purchase of BTT, XPO increased its annual revenue target from $9 billion to $9.5 billion with an operating profit of $625 million by the end of this year.

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SHAPIRO NEWS:

Shapiro's Baltimore Headquarters Moves on Up!

Shapiro is excited to announce that our Baltimore Headquarters office will be relocating to the Locust Point neighborhood in Baltimore, on Friday, June 12, 2015.

The office will remain open for business hours on June 12th and will close promptly at 5:00 p.m. EST.

Please note our new address:

1215 E. Fort Avenue

Suite 201

Baltimore, Maryland 21230

Phone, FAX numbers and our remittance address will remain the same.

The office will be reopen Monday, June 15, 2015 per normal business hours.

We appreciate your patience during this process.

Employee of the Month

As previously featured in Shap Talk, Shapiro has been sharing with you the names of employees who have been recognized for their exceptional efforts and contributions to our Company. At Shapiro, we continually work to develop, challenge, and inspire all of our employees to grow individually and with the Company. This month, we would like to recognize Rich Lucas, Corporate Recruiter in Philadelphia for his outstanding performance and contributions.

We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.

WE WANT TO HEAR FROM YOU!

Do you have suggestions for an article? Is there a topic you'd like us to cover in a future issue? Please let us know! Send your feedback to shaptalk@shapiro.com.

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